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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,552	01/07/2002	Gary Gloceri	10541-822	2455

7590 05/19/2003

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EXAMINER

SPISICH, GEORGE D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/040,552

Applicant(s)

GLOCERI ET AL.

Examiner

George D. Spisich

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-- The MAILING DATE of this communicati n appears on the cover sh et with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

Election/Restrictions

Applicant's election of Claims 1-8 (Group I) in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). This requirement is still deemed proper and is therefore made FINAL.

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Claims 9-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method of making a subframe (Group II), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 lines 2-3, claiming "standardized for use in vehicle exhaust systems" is unclear. It is unclear to claim a vehicle subframe with respect to a different and uninvolved device (exhaust system). Furthermore, it is unclear for the reason that there is in the present, past and future, the same "standard" tube in a vehicle exhaust system.

*standards change
standards vary from place to place or from application to application*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kocer et al. (USPN 6,120,060) in view of Wycech (USPN 6,233,826).

Kocer et al. disclose a vehicle suspension subframe comprising a plurality of metal tubes affixed to each other. However, Kocer et al. does not specifically disclose the dimensions of the tubes or a structural foam positioned with the metal tubes.

Wycech discloses inserting epoxy and urethane resins (col. 4, lines 46-48) within a metal tube at predetermined locations and localized at specific points to reinforce the structural strength of the tube and allow for decreased dimensions of the tube and decreased weight of the tube with respect to simply increasing the dimensions of a structural tube to accomplish the desired increase in structural strength (col. 1, 23-27) while also reducing costs.

With respect to the gauge of the tubes being "less than 2 mm" and "between .9 mm and 1.8 mm" and "about 1.5 mm" (claims 2-4 and 8), it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a tube with these dimensions since it has been held that where the general conditions of a claim

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are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the suspension subframe of Kocer et al. by inserting a reinforcing structural epoxy resin based foam as taught by Wycech and further optimize the dimensions of the metal tubes to provide a stronger, lighter and less costly suspension subframe.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sano et al. (USPN 5,060,975), Ebbinghaus (USPUB 2002/0066254), Wycech (USPN 4,695,343), Wycech (USPN 5,575,526), Wycech (USPN 6,455,126), Wycech (USPN 4,978,562), Czaplicki et al. (USPN 6,471,285), Wycech (USPN 6,406,078), Kunert et al. (USPN 6,511,096), Schoderer et al. (USPN 5,374,081), DE10109636A1, Hartel et al. (USPN 6,516,913), Czaplicki (USPN 6,358,584), Streubel et al. (USPN 6,510,763), JP405278049A, EP 0000999119A2.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (703) 305-6495. The examiner can normally be reached on Monday to Friday 6:00-3:30 except alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

gds
May 15, 2003

 5/15/03
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600